

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
**AMENDED** STATEMENT OF REASONS FOR REGULATORY ACTION  
(**Amended** Pre-adoption Statement of Reasons)

Add Sections 53.00, et seq; 149.1, 149.2, 149.3 and 149.4  
Amend Section 149

Title 14, California Code of Regulations

Re: Market Squid Fishery Management Plan, Commercial Take of Squid,  
and Market Squid Restricted Access Program

I. Date of Initial Statement of Reasons: October 6, 2003

Date of Amended Initial Statement of Reasons: April 12, 2004

Date of Second Amended Initial Statement of Reasons: May 27, 2004

II. Date of Pre-adoption Statement of Reasons: July 19, 2004

**Date of Amended Pre-adoption Statement of Reasons: September 20, 2004**

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 1, 2003  
Location: Long Beach, CA

(b) Discussion Hearings: Date: November 7, 2003  
Location: San Diego, CA  
(cancelled)

Date: December 5, 2003  
Location: Sacramento, CA

Date: May 4, 2004  
Location: San Diego, CA

(c) Adoption Hearing: Date: August 27, 2004  
Location: Morro Bay, CA

**Second Adoption Hearing: Date: December 3, 2004  
Location: Monterey, CA**

IV. Description of Modification of Originally Proposed Language of Initial Statement of Reasons:

*1. Proposed Subsection (g) of Section 149, Title 14, CCR, Commercial Taking of Market Squid.* At the August 27, 2004 adoption hearing, the Commission moved to establish a closure to all squid fishing activity using lights in the Gulf of Farallones National Marine Sanctuary, with the boundaries of the Sanctuary

being defined as those that are currently in effect. The action was taken to provide protection to seabird colonies at the Farallon Islands and Point Reyes, and was not intended as a seasonal closure nor a general habitat closure. Modification to the originally noticed regulatory text was needed to reflect these determinations.

*2. Subsection (b) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.* At the August 27, 2004 adoption hearing, the Commission moved to establish both transferable and non-transferable permit classes for Market Squid Vessel and Brail permits. The regulatory text of this subsection was amended for clarity and specificity with regard to the activities authorized under each class of permit.

*3. Subsection (c) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.* The text of this subsection required amendment once the Commission specified at the August 27, 2004 adoption hearing that in order to qualify for initial issuance of a permit of any permit class, the owner must possess a permit for the 2004-2005 fishing year. Previous versions of the regulatory text allowed individuals to qualify for a non-transferable permit without holding a current permit. The language was further clarified to specify that during initial permit issuance, a permit must be placed only on a vessel that was licensed as either a market squid vessel or light boat in the 2004-2005 fishing season, and which must also be the vessel upon which the qualifying catches were made.

*4. Subsection (c)(2) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.* The text of this subsection outlines the requirements for initial permit issuance for Non-Transferable Market Squid Vessel Permits. At its August 27, 2004 meeting, the Commission specified a requirement that individuals possess a 2004-2005 squid vessel permit in order to qualify for a future permit. In addition, the Commission requested the Department expand the range of qualifying catch criteria based on landings history. Non-Transferable permits were established by the Commission to provide an opportunity for 20-year California fishermen to continue in the squid fishery if they had participated in one or more prior years, pursuant to Section 8101 of the Fish and Game Code.

Because a current permit will now be required for initial issuance of these permits, much of the proposed regulatory text of this subsection was amended. The revised regulatory text is simpler as there is no longer a need to establish a complex set of criteria that would limit the number of potential qualifiers.

Additionally, the updated regulatory text will now allow the Commission to require a minimum of [20-75] landings in any one fishing season for non-transferable vessel permit issuance, and to select the years in which that fishing activity must have occurred. The Commission may require that the catches have been made in any single fishing season (April through March of the following year). Only landing receipts dated [between January 1, 1990 and March 31, 2003] or [between January 1, 1998 and March 31, 2003] or [before August 27, 2004] will be counted toward qualification. See Table 1 below for information on the number of anticipated qualifiers under each of these window period options.

Alternatively, the Commission may select initial issuance criteria for non-transferable vessel permits based on catch history that was made over a time period greater than a single season. The Commission may require a minimum of [20-150] landings at any time prior to August 27, 2004. See Table 2 below for information on the number of anticipated qualifiers.

**Table 1.** Estimated number of fishermen that may qualify for a non-transferable market squid vessel permit based on (1) the possession of an 04/05 market squid vessel permit, (2) the possession of a California Commercial Fishing License for at least 20 years, and (3) having made at least [20-75] landings during any one season as recorded by their fishing license identification number within the specified window period. Because the Department does not have precise information on 20-year fishermen, and because many vessels are owned by corporations rather than individuals, a range of estimates is provided. While the lowest value in the range reflects the number of individuals that the Department anticipates are 20-year fishermen, a maximum number of potential qualifiers (where the 20-year criteria is not considered) is provided for reference.

<b>Number of Landings in a Single Season</b>	<b>I. 1/1/1998 through 3/31/2003</b>	<b>II. 1/1/1990 through 3/31/2003</b>	<b>III. Prior to 8/27/2004 (no window period)</b>
20	6-12	10-17	14-23
33	2	6-11	7-15
40	2	4-8	4-14
50	2	3-6	4-11
75	1	1	1-2

**Table 2.** Estimated number of fishermen that may qualify for a non-transferable market squid vessel permit based on (1) the possession of an 04/05 market squid vessel permit, (2) the possession of a California Commercial Fishing License for at least 20 years, and (3) having made at least [20-150] total landings prior to August 27, 2004 as recorded by their fishing license identification number prior to August 27, 2004. Because the Department does not have precise information on 20-year fishermen, and because many vessels are owned by corporations rather than individuals, a range of estimates is provided. While the lowest value in the range reflects the number of individuals that the Department anticipates are 20-year fishermen, a maximum number of potential qualifiers (where the 20-year criteria is not considered) is provided for reference.

<b>Total Number of Landings</b>	<b>Prior to 8/27/2004 (No Window Period)</b>
20	18-30
33	12-25
40	11-21
50	11-20
75	7-14
100	7-12
125	5-12
150	3-9

**5. Subsection (c)(4) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.** The text of this subsection outlines the requirements for initial permit issuance for Non-Transferable Market Squid Brail Permits. Non-Transferable permits were established by the Commission to provide an opportunity for 20-year California fishermen to continue in the squid fishery if they had participated in one or more prior years, pursuant to Section 8101 of the Fish and Game Code. Because the Commission specified a requirement that individuals possess a 2004-2005 squid vessel or light boat permit for qualification

of 20-year grandfather permits, much of the proposed regulatory text of this subsection for brail permits was amended for consistency with the non-transferable vessel permit class. The revised regulatory text is simpler as there is no longer a need to establish a complex set of criteria that would limit the number of potential qualifiers.

However, because the Commission did adopt the specific qualifying catch history for this class of permit at the August 27, 2004 adoption hearing (10 brail landings in a season between January 1, 2000 and March 31, 2003), the proposed regulatory text reflects the actions taken, and the prior options were eliminated.

6. *Subsection (d) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.* The text of this subsection describes the initial permit issuance application process, requirements and deadlines. The Department proposes the Commission approve an amendment to the adopted regulatory text to specify that the application form number is FG 1315 (8/04), and it is incorporated by reference into the regulations. The form reference was not available at the time the prior notice was filed.

7. *Subsection (g) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.* The text of this subsection describes permit renewal application processes, requirements and deadlines. The Department proposes the Commission approve an amendment to the adopted regulatory text to specify that the renewal application form number is FG 1315 (8/04), and it is incorporated by reference into the regulations. The form reference was not available at the time the prior notice was filed.

8. *Subsection (k) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.* Regulations in this subsection clarify that if a partnership or corporation to which a transferable squid permit is issued is dissolved, the partnership or corporation must notify the Department of the dissolution and specify a successor. A clarifying sentence specifying that change of ownership provisions defined in subsection (l) and transfer fees in subsection (i)(2) are applicable to this situation is added.

9. *Subsection (o) of Proposed Section 149.1, Market Squid Fishery Restricted Access Program.* The text of this subsection describes the process by which transferable permits may be placed on a replacement vessel. At its August 27, 2004 adoption hearing, the Commission adopted transfer provisions for Transferable Market Squid Vessel Permits and Market Squid Brail Permits that allow for these permits to be placed on vessels of comparable capacity (within 10 percent of the gross tonnage of the original vessel). Additionally, for Transferable Market Squid Vessel Permits, if the replacement vessel is not of comparable capacity, a permit may still be issued with surrender of two permits that, in sum, add up to capacity that is comparable to the replacement vessel. Modifications were made to the proposed regulatory text of this subsection to reflect the actions taken as well as to make technical corrections (text of subsections (o)(5) and (o)(6) was inadvertently included twice). Other text was added to clarify provisions related to estate transfers and to specify the transfer process for Non-Transferable Market Squid Vessel Permits and Non-

Transferable Brail Permits to replacement vessels, as follows:

- In the event of death of the holder of a Transferable Market Squid Vessel Permit, Transferable Market Squid Brail Permit, or a Transferable Market Squid Light Boat Permit, the estate must apply for transfer of the permit to another entity within one year of the permitholder's death.
- A Non-Transferable Market Squid Vessel Permit or a Non-Transferable Market Squid Brail Permit may not be transferred to another owner or vessel, except in the event the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown, the permit may be placed on a replacement vessel of comparable capacity, with proof that the permitted vessel is lost, stolen, or destroyed in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency. In the case of mechanical breakdown, the application shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard.

V. Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

At the Commission's August 27, 2004 adoption hearing, action was taken to adopt the Market Squid Fishery Management Plan and implementing regulations, certify the environmental document, and adopt fishery management measures, including a restricted access program for the commercial squid fishery.

While the Commission acted on most components of the proposed regulations noticed as part of this rulemaking package, it directed the Department to modify the proposed options relating to non-transferable permits. Based on public comment, the Commission indicated that it wished to consider permit qualifying criteria that was not included among the options provided in the Initial Statement of Reasons. This Amended Pre-Adoption Statement of Reasons serves to revise the options for consideration for non-transferable permits, as well as to modify specific sections of the regulatory text following adoption on August 27, 2004, to better capture the intent of the Commission as expressed in its motion.

A description of each section of regulatory text that is proposed to change is included in Section IV of this document, along with the reasons prompting the changes or additions.

VI. Summary of Primary Considerations Raised in Opposition and in Support:

The attached draft Market Squid Fishery Management Plan contains a summary of all comments received and the Department's responses to these comments from July 7, 2003 through February 1, 2004. See Table 1-1 on pages 4-1 through 4-32 of the document.

Additionally, the Pre-adoption Statement of Reasons dated July 19, 2004,

included an additional table (Table 2) that summarizes public comments and the Department's responses to these comments received from February 1, 2004 through July 1, 2004.

Public comments received after July 1, 2004 will be included with the Final Statement of Reasons which will be submitted following the December 3, 2004 second adoption hearing. As described above, public comments received at the August 27, 2004 adoption hearing in Morro Bay supported the Commission's decision to consider additional qualifying criteria options for Non-Transferable squid fishing permits.

## Updated Informative Digest/Policy Statement Overview

At the Commission's August 27, 2004 adoption hearing, action was taken to adopt the Market Squid Fishery Management Plan and implementing regulations, certify the environmental document, and adopt fishery management measures, including a restricted access program for the commercial squid fishery.

While the Commission acted on most components of the proposed regulations of the rulemaking package, it directed the Department to modify the proposed options relating to non-transferable permits. Based on public comment, the Commission indicated that it wished to consider permit qualifying criteria that were not included among the options provided in the Initial Statement of Reasons. This document serves to revise the options for consideration for non-transferable permits, as well as to modify specific sections of the regulatory text following adoption on August 27, 2004, to better capture the intent of the Commission as expressed in its motion. The following items describe the proposed changes to the regulatory text and the remaining decisions to be made by the Commission at its second adoption hearing on December 3, 2004. The Final Statement of Reasons will include all decisions made by the Commission at both meetings.

***1. Proposed Subsection (g) of Section 149, Title 14, CCR, Commercial Taking of Market Squid.*** At the August 27, 2004 adoption hearing, the Commission moved to establish a closure to all squid fishing activity using lights in the Gulf of Farallones National Marine Sanctuary, with the boundaries of the Sanctuary being defined as those that are currently in effect. The action was taken to provide protection to seabird colonies at the Farallon Islands and Point Reyes, and was not intended as a seasonal closure nor a general habitat closure. Modification to the originally noticed regulatory text was needed to reflect these determinations.

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market squid vessel or light boat in the 2004-2005 fishing season, and which must also be the vessel upon which the qualifying catches were made.

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**marine surveyor or boat repair yard.**